



The Large Public Power Council

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**Statement of the
Large Public Power Council
for the Record of the Hearing on
Certain Expiring Tax Provisions
April 26, 2012
before the House Ways and Means Committee
Subcommittee on Select Revenue Measures**

Austin Energy (TX) • Chelan County PUD (WA) • Clark Public Utilities (WA) • Colorado Springs Utilities (CO) • CPS Energy (TX)
ElectricCities of North Carolina, Inc. (NC) • Grant County PUD (WA) • IID (CA) • JEA (FL) • Long Island Power Authority (NY)
Los Angeles Department of Water and Power (CA) • Lower Colorado River Authority (TX) • MEAG Power (GA) • Nebraska Public Power District (NE)
New York Power Authority (NY) • Omaha Public Power District (NE) • OUC (FL) • Platte River Power Authority (CO)
Puerto Rico Electric Power Authority (PR) • Sacramento Municipal Utility District (CA) • Salt River Project (AZ) • Santee Cooper (SC)
Seattle City Light (WA) • Snohomish County PUD (WA) • Tacoma Public Utilities (WA)

The Large Public Power Council (LPPC) is pleased to submit its statement for the record to the Subcommittee on Select Revenue Measures of the House Ways and Means Committee in connection with its hearing on certain expiring tax provisions held April 26, 2012.

The Large Public Power Council is an organization representing 23 of the largest locally owned and operated not-for-profit electric systems in the nation. LPPC members are located in 10 states and Puerto Rico and provide electric service to most of the 45 million people served by public power. Over 75,000 megawatts of generation capacity is owned and operated by LPPC members.

LPPC and its members support the extension of the following provisions: (1) the Clean Renewable Energy Bond (CREB) program, which was enacted as part of the Energy Policy Act of 2005, and was extended twice and for which additional allocations of bond authority were made but which is currently without any available allocation; (2) the Treasury renewable grant program ("1603 grants"), with an amendment to permit public power to participate; and (3) Build America Bonds (BABs).

Clean Renewable Energy Bonds

Congress has recognized that renewable energy projects are generally more costly than electricity generated from fossil fuels and that this additional cost makes renewable energy more expensive to ratepayers. In an attempt to encourage the development of renewable resources for electricity, the Internal Revenue Code has provided a production tax credit for renewable energy projects with no corresponding provision to assist public power systems and cooperatives in building renewable generation. Congress sought to provide public power and cooperatives with an incentive that is relatively comparable to the production tax credit. As part of the Energy Policy Act of 2005 (the "Energy Policy Act"), Congress provided for the issuance of clean renewable energy bonds which were intended to provide qualifying borrowers with low-rate loans to finance their renewable energy projects.

The CREBs program was included as part of the tax title of the Energy Policy Act of 2005, which was signed into law in August of 2005. The original program, which provided for an allocation of \$800 million in CREB funding, was extended twice and was modified in the Emergency Economic Stabilization Act of 2008 to make it more workable for public power and more attractive to investors. The Emergency Economic Stabilization Act and the American Recovery and Reinvestment Act of 2009 provided for an additional \$2.4 billion in CREB funding split equally between public power providers, rural electric cooperatives, and other governmental bodies.

That amount has been fully allocated to issuers; there is currently no allocation for CREBs even though the need for the program, that is, the fact that renewable resources for electricity continue to be more expensive to develop, continues. Therefore, LPPC urges the extension of this program through an additional, preferably uncapped, even if temporarily, allocation, for the reasons described below.

LPPC is very appreciative of the incremental improvements to the program that have improved the marketability of the CREBs; however, there remain restrictions on CREBs that substantially

reduce its effectiveness. Most significantly, the CREBs program has a volume cap (\$800 million for public power providers) that ensures that only a small fraction of the qualifying projects of public power systems benefit from CREBs. In contrast, there are no volume limitations on the projects that are eligible for the production tax credit or the Section 1603 grant program. Introduction of a cap to the program creates both financial and planning challenges. From a financial standpoint, the cap has restricted the ability for utilities to finance an entire project with CREBs. In fact, the volume cap is set at such a restrictive level that 2 or 3 large-scale projects or utilities could use the entire cap. To date, the CREBs volume cap provided by the Congress has been dramatically oversubscribed by public power, even with many systems requesting only a small fraction of their renewable project requirements and many systems not bothering to apply at all. The fact is that an allocation of CREBs authority that is not large enough to finance an entire project does not compare financially to a privately owned PPA structure. Both publicly available data and LPPC's survey of its members plans bear this out: public power systems have almost always used PPA structures because, despite the inefficiencies and other problems, these structures are the lowest cost method of financing renewable energy projects.

The recently-enacted changes to the CREBs program to provide direct payments to CREBs issuers similar to the Build America Bonds program (in lieu of tax credits to the investors) is a very beneficial change. With this change, the marketability challenges have been alleviated and the restrictive cap is the primary issue reducing the effectiveness of the program.

Tax credits and grants for electric generation

Congress has enacted several tax credits for different types of electric generation facilities. First, as indicated above, the Internal Revenue Code provides a 1.5 cents per kilowatt production tax credit (indexed for inflation) for qualifying renewable energy facilities and a 1.8 cents per kilowatt production tax credit (indexed for inflation) for qualifying advanced nuclear facilities. As part of the American Recovery and Reinvestment Act of 2009 (ARRA), Congress recognized that tax credit programs can have significant limitations, particularly during difficult economic periods. Under new the Section 1603 of ARRA, Congress provided owners of renewable energy projects with the ability to obtain a 30 percent grant from the Department of Energy in lieu of a tax credit. As both the Treasury and Energy Departments have testified, this program has been enormously successful.

Unfortunately, this grant program was made inapplicable to public power systems and electric cooperatives. The combination of the success of the Section 1603 grant program and, before that, the production tax credit, and the limitations of the CREBs program have resulted in public power systems overwhelmingly turning to structures in which a private entity owns the renewable energy project and sells the electricity to the public power system under a power purchase agreement ("PPA"). There are many difficulties with these PPA structures. As much as 1/3 of the federal subsidy dollars are retained by the private intermediary and, as a result, are not used for the renewable project receiving the grant. Thus, for every dollar of federal assistance provided, only 70 cents is used for that renewable energy facility. The remainder of the grant is not certain to be reinvested in renewable projects in the United States. The inefficiency of the PPA structure would be eliminated if public power and cooperatives had direct access to the Section 1603 grant program and US taxpayer dollars and jobs would stay within the United

States. We urge that the 1603 grant program be extended and modified to permit the participation of public power and cooperatives.

Build America Bonds (BABs)

BABs are a new borrowing tool for State and local governments, including public power entities, enacted as part of ARRA. These bonds are conventional taxable bonds issued by State and local governments. The Treasury Department makes direct payments to issuers to subsidize a portion of their borrowing costs in an amount equal to 35% of the coupon interest on the bonds. ARRA authorized the issuance of BABs in 2009 and 2010 without volume limitations. Currently, there is no authority to issue new BABs.

The BABs program was very successful and expanded the market for State and local governmental debt. During 2009-10, BABs represented over 25% of the total dollar supply of State and local governmental debt. The program taps into a broader market of investors without regard to tax liability, for instance, pension funds. It also has relieved supply pressures in the tax-exempt bond market and has helped to reduce interest rates in that market. Making BABs permanent could promote market certainty and greater liquidity.

A number of LPPC members utilized BABs during 2009 and 2010 to finance essential new electricity generation and transmission infrastructure, creating much-needed quality jobs at the same time. We found the option to issue BABs a welcome addition to the limited options available for State and local governmental entities to finance large projects with long useful lives. We urge that the program be made permanent, or at the very least extended.

Conclusion

LPPC strongly believes that the electric industry needs to be provided with the appropriate tools to finance new electricity infrastructure and increase the use of clean and renewable resources to generate electricity. By doing this, Congress can help to ensure that U.S. consumers have access to reasonably, priced, reliable electricity while at the same time creating and sustaining quality jobs here in the U.S. Therefore, for the reasons discussed above, we urge the extension of the following provisions: (1) the Clean Renewable Energy Bond (CREB) program, with an uncapped allocation; (2) the Treasury renewable grant program ("1603 grants"), with an amendment to permit public power to participate; and (3) Build America Bonds (BABs).